

SERVICE DATE – OCTOBER 16, 2015

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB 290 (Sub-No. 378X)

NORFOLK SOUTHERN RAILWAY COMPANY—ABANDONMENT
EXEMPTION—IN NOTTOWAY COUNTY, VA.

Decided: October 16, 2015

Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon approximately 0.70 miles of railroad line in Nottoway County, Va. The line extends between mileposts N 133.4 (near Atwood Street) and N 134.1 (near Highway 460 and Burkes Tavern Road). Notice of the exemption was served and published in the Federal Register on September 17, 2015 (80 Fed. Reg. 55,904).¹ The exemption is scheduled to become effective on October 17, 2015.

The Board's Office of Environmental Analysis (OEA) served an environmental assessment (EA) in this proceeding on September 22, 2015. In the EA, OEA states that the U.S. Fish and Wildlife Service (FWS) provided NSR with a list of endangered/threatened species that may occur within the boundary of the proposed abandonment area (FWS consultation code 05E2VA00-2015-SLI-1713). The species include the endangered flowering plant, Michaux's sumac; the endangered Dwarf wedgemussle; the endangered Roanoke loggerch; and the threatened Northern long-eared Bat. FWS states that no areas of critical habitat were identified in the project area, and, to ensure that its concerns are appropriately addressed, OEA recommends that a condition be imposed requiring NSR to consult with FWS prior to the onset of salvage operations.

OEA states that the National Geodetic Survey (NGS) commented that there are two geodetic station markers within the right-of-way of the proposed abandonment. OEA recommends that a condition be imposed requiring NSR to contact NGS regarding impacts to the station markers prior to initiating any salvage activities.

Further, OEA states that the State Historic Preservation Office or SHPO (SHPO) has not provided its opinion regarding potential effects to historic properties pursuant to Section 106 of the National Historic Preservation Act. OEA therefore recommends that a condition be imposed

¹ In the notice served on September 17 it was erroneously stated that the exemption would become effective on October 7, 2015. On October 6, 2015, a correction to the notice was served that provided the correct effective date, which is October 17, 2015. The notice published in the Federal Register contained the correct effective date.

requiring NSR to retain its interest in and take no steps to alter the historic integrity of all historic properties, including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the SHPO provides its opinion and the Section 106 process has been completed.

Comments to the EA were due by October 7, 2015. In the Final EA, OEA states that NSR submitted a letter from the SHPO dated September 4, 2015, stating that the proposed abandonment would have no adverse effect on historic properties pursuant to Section 106 of the National Historic Preservation Act. OEA states that it concurs with the assessment and recommends that the Section 106 condition recommended in the EA not be imposed.

OEA states that it did not receive other comments and continues to recommend imposition of the two consultation conditions included in the EA. Accordingly, the conditions recommended by OEA in the EA, other than the Section 106 condition, will be imposed.

Based on OEA's recommendations, the proposed abandonment, if implemented as conditioned, will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the notice served on September 17, 2015 (as corrected on October 6, 2015) and published in the Federal Register on September 17, 2015, exempting abandonment of the line described above is subject to the conditions that NSR shall: (1) consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers; and (2) prior to commencement of any salvage activities (i) consult with FWS regarding potential impacts from salvaging activities to federally listed threatened and endangered species that may occur in the vicinity of the line, and (ii) report the results of the consultations in writing to OEA prior to the onset of salvage operations.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.